



BRIEF HISTORY

- Established in 2014 by the passage of House Bill 542 Idaho Public Defense Act
 - Added/Amended Idaho Code § § 19-847 19-866
- Seven Member Commission
 - Appointed by different authorities
 - No appointees may be a prosecuting attorney or a current employee of law enforcement agency
- Staff: Executive Director and other personnel
- Result of the Public Defense Reform Interim Committee following a three-year study prompted by the Idaho Criminal Justice Commission



POWERS AND DUTIES BEFORE HB504

- Promulgate rules related to training and CLE requirements
- Promulgate rules related to uniform data reporting requirements
- Make recommendations to the Idaho Legislature
 - Core requirements for PD contracts
 - Qualifications and experience standards for PDs
 - Enforcement mechanisms
 - Funding issues



EXPANSION OF PDC'S POWERS AND DUTIES

- * Tucker v. State of Idaho
 - Plaintiffs: Four (Bonner, Shoshone, Ada, and Payette Counties)
 - Defendants: Governor and the individual members of the PDC
 - 1. Lack of resources
 - 2. Limited communication with attorney
 - 3. Lack of defending attorneys at initial appearances
 - 4. Flat-fee contracts disincentive to hire experts or investigators
 - 5. Excessive caseloads



SIXTH AMENDMENT RIGHT TO COUNSEL

- ❖ Powell v. Alabama (1932)
 - Capital cases
 - Special circumstances: ignorance, feeblemindedness, illiteracy or the like
- ❖ Gideon v. Wainwright (1963)
 - Felony cases
 - Fundamental fairness
 - Fair Trial
- * Argersinger v. Hamlin (1972)
 - Actual imprisonment
- * Alabama v. Shelton (2002)
 - Any chance of the deprivation of liberty



SIXTH AMENDMENT RIGHT TO COUNSEL

- ❖ When does it apply?
 - Critical Stages, including but not limited to:
 - Custodial interrogation
 - Initial Appearance
 - Preliminary Hearing
 - Arraignment
 - Trial
 - Sentencing
 - Appeal



EFFECTIVE ASSISTANCE OF COUNSEL

- ❖ A defendant is entitled to effective counsel who has knowledge of defendant rights and capable of presenting defenses to which the accused is entitled
- ❖ If counsel does not effectively represent a defendant, a conviction could be overruled upon appeal because of the denial of assistance of counsel
- Strickland v. Washington (1984)

WHAT HOUSE BILL 504 ACCOMPLISHED

Improving the delivery of trial-level indigent defense services by providing funding and creating standards with which counties must comply.

Powers and Duties - Idaho Code §19-850

Shall Promulgate rules related to:

- Training and CLE requirements
- Uniform data reporting requirements and model forms
- Model contracts and core requirements for contracts
- Allowing counties to apply for a PDC Grant to come into compliance with standards

POWERS AND DUTIES - IDAHO CODE \$19-850

Shall Promulgate rules related to:

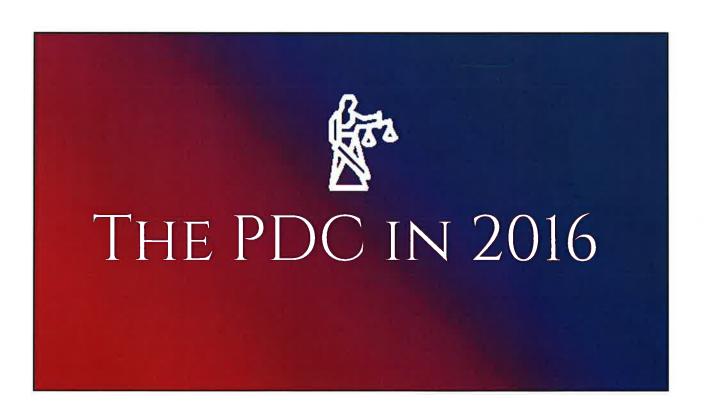
- Administrative procedure act
- Procedures for oversight, implementation, enforcement and modification of indigent defense standards
- Standards for defending attorneys
 - Idaho's Principles of Public Defense Delivery System

POWERS AND DUTIES - IDAHO CODE \$19-850

- Make recommendations to the Legislature
 - Enforcement mechanisms
 - Funding issues including calculation of local shares and state indigent defense grants
- Review indigent defense providers and defending attorneys to evaluate compliance
- Establish temporary procedures and model forms for indigent defense grants

POWERS AND DUTIES - IDAHO CODE \$19-850

- Hire an Executive Director and other personnel
- Provide training and CLE for indigent defense providers and defending attorneys
- Establish procedures for providing extraordinary litigation costs to counties
- Hire private counsel to represent the PDC in hearings per administrative procedure act and rules promulgated in this section





Annual Report - Executive Summary

- Training for Defending Attorneys p. 16
- Collaborating with Idaho's Counties p. 16
- ❖ Submission of Rules p. 20
 - Training Rule
 - Standards for Defending Attorneys
- Inaugural Indigent Defense Grants p. 22
- ❖ Going Forward p. 24
 - Workload study

\$3,819,346.99 FY2017 Indigent Defense Grants

\$100,000.00 FY 2017 Joint County Incentive Grants

\$92,552.00 FY2016 Training for Defending Attorneys





COUNTY SUMMARY

- ❖ 43 of 44 counties applied for an Indigent Defense Grant
- All counties who applied were eligible
- ❖ 20 counties were eligible for more than \$25,000
- ❖ 4 counties applied for a joint grant award
- 12 counties have institutional offices
- No counties contract with an existing office of public defender
- Only 8 counties did not experience increased budgets between FY2011 and FY2015



BIGGEST COUNTY CONCERNS

- Concerns surrounding the ever-increasing costs for providing indigent defense services
- The feasibility of having defending attorneys at initial appearances
- Concerns about the permanence of Indigent Defense Grant funding
- Desire to have "extraordinary litigation costs" defined
- Annual Report pp. 16 18



RECOMMENDATIONS

- Indigent Defense Grants
- Revision to FY2017 Budget
- The Commission asks the legislature to provide guidance regarding the following issues:
 - The addition of the PDC to agencies exempt pursuant to Idaho Code §74-124(1)(b).
 - Additional state monies for discretionary grants such as the Extraordinary Litigation Fund



RECOMMENDATIONS

- The Commission asks the legislature to provide guidance regarding the following issues:
 - Recalculation of Local Share as defined by Idaho Code §19-862A to increase the amount for which counties are eligible
 - The possibility of additional monies to offset the costs of increased budgets due to the banning of fixed-fee contracts
 - Additional members of the Commission to increase representation from rural areas



GOING FORWARD ...

- Workload Study
- Promulgate additional rules
- Educating stakeholders
- Training defending attorneys
- Define "extraordinary litigation costs"



